

Marc Toberoff (MT 4862)  
TOBEROFF & ASSOCIATES, P.C.  
2049 Century Park East, Suite 2720  
Los Angeles, CA 90067  
Tel: 310-246-3333

Attorneys for Defendants Lisa R. Kirby, Barbara J.  
Kirby, Neal L. Kirby and Susan M. Kirby

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

MARVEL WORLDWIDE, INC.,  
MARVEL CHARACTERS, INC. and  
MVL RIGHTS, LLC,

Plaintiffs,

Civil Action No. 10-141 (CM) (KF)

[Hon. Colleen McMahon]

LISA R. KIRBY, BARBARA J. KIRBY,  
NEAL L. KIRBY and SUSAN M. KIRBY,

Defendants.

---

**DECLARATION OF LISA R. KIRBY IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS**

I, Lisa R. Kirby, hereby declare as follows:

1. I am the daughter of the comic book creator and artist Jack Kirby, (a.k.a. Jacob Kurtzberg). I am familiar with the facts set forth below and make this declaration in support of defendants' motion to dismiss. The facts set forth herein are known to me of my own personal firsthand knowledge and, if called as a witness, I could and would testify competently thereto under oath.

2. I am a resident and citizen of the State of California. I reside in Ventura County, California and have lived there nearly 40 years.

3. I am the Trustee of the Rosalind Kirby Trust and in that capacity I manage the affairs of my father's and mother's estate.

4. Along with my siblings, Barbara J. Kirby, Neal L. Kirby and Susan M. Kirby, I executed and served by first class mail on September 16, 2009, forty-five notices of termination ("Notices of Termination") regarding prior alleged grants of copyrights in works authored or co-authored by my father.

5. I have been designated by my two sisters to act as a "point person" to oversee, along with my brother, Neal Kirby, the Notices of Termination and any litigation with respect thereto. In that capacity, I arranged for the retention of the Los Angeles law firm of Toberoff & Associates, P.C. to draft and serve the Notices of Termination and to handle any related litigation, and I regularly consult with the firm regarding this matter.

6. I do not operate a business in the State of New York nor do I "systematically and continuously" transact or solicit business in New York.

7. I do not own or maintain any offices, bank accounts, real property or other assets in New York, nor do I have any employees in New York.

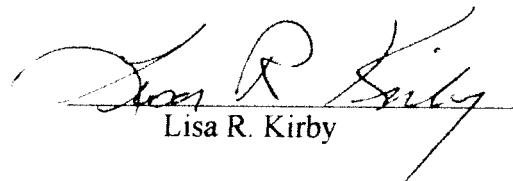
8. I do not pay income, property or use taxes to the State of New York.

9. On March 9, 2010, I, along with my siblings, filed a lawsuit in the United States District Court, Central District of California, seeking, among other things, a

declaratory judgment that our Notices of Termination are valid and effective under the Copyright Act.

I declare under penalty of perjury that to the best of my knowledge the foregoing is true and correct.

Dated: March 9, 2010



Lisa R. Kirby

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing was served electronically by the Court's ECF system and by first class mail on those parties not registered for ECF pursuant to the rules of this court.

Dated: March 9, 2010

TOBEROFF & ASSOCIATES, P.C.

By: s/Marc Toberoff

Marc Toberoff (MT 4862)

2049 Century Park East, Suite 2720  
Los Angeles, CA 90067  
Tel: 310-246-3333

Attorneys for defendants Lisa R. Kirby, Barbara J. Kirby, Neal L. Kirby and Susan M. Kirby